

## REMARKS

Claims 1-16 and 18-24 are pending in this application. Claims 1-16 and 18-24 are rejected. In view of the following remarks, Applicant respectfully requests withdrawal of the rejections in the Office Action, and allowance of the application.

### **Substance of Examiner Interview**

The undersigned participated in a telephonic Examiner Interview on January 6, 2009 with Examiner Barot. During the interview, Applicant's independent claim 1 was discussed with reference to the Takamoto patent. At the conclusion of the interview, Examiner Barot agreed that Takamoto did not anticipate claim 1, and was not a 35 U.S.C. § 102(e) reference. The following remarks are substantially the same arguments presented to the Examiner during the telephone interview, and no additional submissions are required.

### **Claim Rejections Under 35 U.S.C. § 102(e)**

Claims 1-16 and 18-24 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Takamoto et al. (U.S. Patent No. 6,470,391). Applicant respectfully disagrees.

Takamoto is directed to a system for dividing a packet, which requires an acknowledgement (ACK), into smaller packets and providing sub-acknowledgements. As stated at column 4, lines 25-40 of Takamoto:

According to the present invention, one ACK unit is divided into a plurality of sub-ACK unit packets each furnished with a tag indicating the pre-division position. The divided packets are transmitted sequentially. Upon receipt of each divided packet, the receiving side communication controller returns a sub-ACK comprising the result of the reception to the transmitting side communication controller. Having received all packets, the receiving side communication controller determines the order of the packets as per the contents of their tags indicating the pre-division position and merges their data parts. The transmitting side checks the received sub-ACK's for the result of the reception to see if any packet need retransmission. Any packet is retransmitted if determined to be necessary. When all sub-ACK's have been normally received, the transmitting side puts them into a single ACK and notifies the request source thereof. (Emphasis Added)

In contrast, Applicant's claim 1 recites, in part:

receiving, at a network driver device, a data packet transmitted from a stack mechanism ***in said server environment;***  
***sending***, from the network driver device, ***an acknowledgment packet to said stack mechanism without sending said acknowledgment packet across said I/O bus;*** and  
***after sending said acknowledgement packet, transmitting***, by the network driver device, ***said data packet across the I/O bus in said server environment to said client.***

The Office cites column 7, line 1 to column 8, line 15 as disclosing the above features. However, Takamoto does not disclose the claimed sending step, specifically, the sending an acknowledgement to the stack mechanism without sending said acknowledgement packet across the I/O bus. At column 7, line 7, in reference to the received data, Takamoto states “For each packet, the communication controller 206 returns a sub-ACK 207 indicating completion of data transmission.” Therefore, the acknowledgement packet is sent across the I/O bus.

Furthermore, in claim 1, the data packets are transmitted across the I/O bus after sending the acknowledgement packet. As shown in FIG. 4 and described at column 8, lines 1-15 of Takamoto, the data packets are transmitted across the I/O bus (see specifically column 8, lines 4 and 5).

Takamoto does describe merging a plurality of the sub-acknowledgements into a single acknowledgement at column 8, lines 9-15. However, the single acknowledgement is not sent from the network driver device to said stack mechanism as recited in claim 1.

Finally, Takamoto is directed to computer to computer communications and does not occur in a server environment as recited in claim 1.

For at least the above reasons and because the Examiner agrees that Takamoto does not anticipate claim 1 under 35 U.S.C. §102(e), claim 1 is allowable. Claims 2-7 depend from claim 1, and are also unanticipated by Takamoto and is allowable.

In the rejection, the Office rejects claims 8-14 under the same rationale as claims 1-7. However, claim 8 recites:

A method of transferring data packets between ***a server and a client***, said method comprising:

***acknowledging a data packet by a driver mechanism in said server by sending an acknowledgement packet to a stack mechanism in said server***, wherein said driver mechanism is connected between said stack mechanism and an I/O bus in said server; and

***after said acknowledging, transmitting*** by the driver mechanism ***said data packet across an I/O bus*** to a component of said server; and

***storing information regarding said data packet at said component.***

As described above, Takamoto acknowledges the data packet after transmitting the data packet across the I/O bus (see column 4, lines 29-31 and column 8, lines 4-6), this is the opposite to what is claimed. In addition, the claimed storing information step is not disclosed or suggested by the cited text. Accordingly, the Applicant respectfully submits that claims 8-14 are not anticipated by Takamoto.

As for claims 15, 16 and 18-21, the Office asserts that these claims merely recite an apparatus for the method of operation defined in claims 1-7 and are rejected for the same reasons. However, as described above, Takamoto does not anticipate the method of claims 1-7.

Specifically, claim 15 recites, in part:

a I/O bus coupled between said operating system and said network interface card, wherein said driver mechanism to transmit a data packet across said I/O bus to said network interface card and, prior to transmitting said data packet, said ***driver mechanism to send an acknowledgment packet regarding said data packet to said stack mechanism via said communication path and without transmitting said acknowledgment packet across said I/O bus.***

Takamoto does not disclose a driver mechanism that sends an acknowledgement packet without sending the acknowledgement packet across the I/O bus. Accordingly, claims 15, 16 and 18-21 are not anticipated by Takamoto, and are allowable.

As for claim 22, it is directed to a network interface card. The Office asserts that claim 22 is rejected for the same reasons as claims 1-7 and 15. However, none of the cited text or figures refer to a network interface card having the features recited in claim 22. Claims 23 and 24 recite an additional level of detail, such as an error indicating

Applicant: Anil VASUDEVAN  
Serial No. 09/893,888

mechanism, that is neither disclosed nor suggested by Takamoto. Accordingly, claims 22-24 are allowable.

**Conclusion**

In light of the above discussion and the Examiner's agreement that Takamoto does not anticipate independent claim 1, Applicant respectfully submits that the present application is in all aspects in allowable condition, requests that all rejections be withdrawn, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Kenyon & Kenyon Deposit Account No. 11-0600. The Examiner is invited to contact the undersigned at (202) 220-4254 to discuss any matter concerning this application.

Respectfully submitted,

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/Martin E. Miller/  
Martin E. Miller  
Registration No. 56,022  
(Attorney for Intel Corporation)

KENYON & KENYON LLP  
1500 K Street, N.W., Suite 700  
Washington, D.C. 20005  
Phone: (202) 220-4200  
Fax.: (202) 220-4201